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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 653]

भोपाल, सोमवार, दिनांक 4 दिसम्बर 2017—अग्रहायण 13, शक 1939

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 4 दिसम्बर 2017

क्र. 19035-257-इक्कीस-अ-(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश निजी विद्यालय (फीस तथा संबंधित विषयों का विनियमन) विधेयक, 2017 (क्रमांक 27, सन् 2017) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा, प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अतिरिक्त सचिव.

**MADHYA PRADESH BILL
NO. 27 OF 2017
THE MADHYA PRADESH NIJI VIDYALAYA (FEES TATHA SAMBANDHIT VISHAYON KA VINIYAMAN)
VIDHEYAK, 2017**

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MADHYA PRADESH BILL
NO. 27 OF 2017

THE MADHYA PRADESH NIJI VIDYALAYA (FEES TATHA SAMBANDHIT VISHAYON KA VINIYAMAN) VIDHEYAK, 2017

A Bill to provide for the regulation of increment in fee and collection thereof by private schools in the State of Madhya Pradesh and matters connected therewith and incidental thereto.

Be it enacted by the Madhya Pradesh Legislature in the sixty-eighth year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1 (1) This Act may be called the Madhya Pradesh Niji Vidyalaya (Fees Tatha Sambandhit Vishayon Ka Viniyaman) Adhiniyam, 2017.

Short title,
extent and
commencement.

(2) It extends to whole of the State of Madhya Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

2. In this Act, unless the context otherwise requires—

Definitions

- (a) “academic year” means any period that may be so specified by the State Government;
- (b) “competent authority” means the authority authorized to give recognition or renew recognition under the Madhya Pradesh Madhyamik Shiksha Adhiniyam 1965 (No. 23 of 1965) and rules made thereunder or give affiliation under the affiliation by laws of the Central Board of Secondary Education or any other Indian or international examination body;
- (c) “District Committee for Regulating Fee and Related Issues” means the Committee constituted under sub-section (1) of Section 7;
- (d) “fee” means fee as defined in sub-section (1) of Section 3;
- (e) “Government” means the Government of Madhya Pradesh;
- (f) “local authority” means the Gram Panchayat, Janpad Panchayat, Zila Panchayat, Nagar Parishad, Municipality or Municipal Corporation;
- (g) “management” means the management committee or the governing body or a person, by whatever name called, to whom the affairs of the private school are entrusted;
- (h) “prescribed” means prescribed by rules made under this Act;
- (i) “private high school” means the private school approved by the competent authority to impart education from class IX to X or from Class I to X, and is affiliated to any Indian or International examination body;
- (j) “private higher secondary school” means the private school approved by the competent authority to impart education from class XI to XII or from Class I to XII, and is affiliated to any Indian or International examination body;
- (k) “private middle school” mean the private school approved by the competent authority to impart education from class VI to VIII or from class I to VIII and is affiliated to any Indian or International examination body;

- (l) "private minority school" means the private school which has been issued the minority status certificate by the Backward Classes and Minorities Welfare Department of the Government;
- (m) "private pre-primary school" means the private school providing early childhood care and education up to pre-primary school level to children of three to six years of age such as Nursery, Junior Kindergarten, Senior Kindergarten level or by whatever name called, whether attached to any private school or not;
- (n) "private primary school" means the private school approved by the competent authority to impart education from class I to V level;
- (o) "private school" means any private pre-primary, primary, middle, high school or higher secondary school including private minority school, whether or not receiving any financial assistance from the Central Government or State Government or local authority or public sector undertakings or semi-government organizations, but does not include a school imparting only religious education, a fully residential school and a school run by the State Government or any local authority;
- (p) "related issues" means issues such as providing textbooks, stationery, reading material, school bags, uniform, transport to the students and all such issues which cause the student or his parent or guardian to pay a sum of money directly or indirectly to the private school;
- (q) "State Committee for Regulating Fee and Related Issues" means the Committee constituted under sub-section (1) of Section 11.

CHAPTER II

FEE AND FACTORS FOR DETERMINATION OF INCREMENT IN FEE

Fee and factors for determination of increment in fee.-

3. (1) Fee means any amount by whatever name called, collected directly or indirectly by a private school for admission of student to any standard or course of study, and shall include:-

- (a) Tuition fee,
- (b) Library fee,
- (c) Reading Room Fee,
- (d) Games Fee,
- (e) Laboratory Fee,
- (f) Computer Fee,
- (g) Caution Money,
- (h) Examination Fee,
- (i) Fee for programs organized on occasions such as national festivals, annual functions, sporting events,
- (j) Admission Fee,
- (k) Fee for registration, prospectus and admission form,
- (l) any other amount which is mandatory for the student to pay,
- (m) any other amount payable by students, which may be prescribed by the Government.

(2) The following factors shall be considered by the District or State Level Committee for Regulating Fee and Related Issues, as the case may be, while deciding increment in fee:—

- (a) the cost of the land, building and fixtures appurtenant thereto;
- (b) number of students;
- (c) streams of study;
- (d) expenditure incurred by the institution on the infrastructure and facilities provided;
- (e) expenditure on administration and maintenance;
- (f) expenditure on providing free education to the weaker sections and disadvantaged groups in compliance of the Central Government policy;
- (g) number of teaching and non-teaching staff and their qualifications;
- (h) excess of annual receipts over expenditure as specified in sub-section (2) of Section 5, reserved for the development of the private school;
- (i) salary of teaching and non-teaching staff;
- (j) assistance provided by the Government such as land, grants;
- (k) student teacher ratio, and
- (l) any other factor as may be prescribed.

CHAPTER III PROCESS FOR REGULATION OF INCREMENT IN FEE

4.(1) Within 90 days of commencement of this Act, all private schools shall submit the audited accounts of the preceding three years in such manner as may be prescribed.

Process for
submission of
accounts and
proposal of
increment in
fee.-

(2) The District Committee for Regulating Fee and Related Issues may inspect the accounts of such private school whose excess of annual receipts over expenditure as per its audited accounts is less than 10%.

(3) The management of every private school shall submit the proposed fee structure for the ensuing academic year with such documents and accounts as may be prescribed.

(4) The proposal submitted by the management under sub-section (3) above shall be accompanied by an amount not exceeding five thousand rupees, which shall be deposited in such account and in such manner as may be prescribed.

5. (1) The District Committee for Regulating Fee and Related Issues shall not fix the fee but shall regulate the increment in fee.

Regulation of
increment in
fee.-

(2) The increment in fee shall be regulated to keep excess of annual receipts of the year for which the fee is proposed over expenditure for the same year, within 15 percent of such annual receipts.

(3) Subject to the provisions of sub-section (2) here in above:

- (a) the management may increase the fee up to 10 percent of the fee fixed for the preceding year;
- (b) the District Committee for Regulating Fee and Related Issues shall be authorized to decide quantum of the increment of fee where such proposed increment is more than 10 percent of the fee charged in the preceding year :

Provided that if the proposed increment in fee is more than 15 percent of the preceding year, the District Committee shall send the same along with its comments to the State Committee for Regulating Fee and Related Issues for its decision;

- (c) the State Committee for Regulating Fee and Related Issues shall be authorized to decide the quantum of increment of fee where the proposed increment of fee is more than 15 percent of the preceding year.

(4) The management of a private school shall in its proposal of increment of fee submitted under sub-section (3) of Section 4 mention the amount payable against the items of fee provided in sub-section(1) of Section 3.

(5) The management of a private school or any person on its behalf shall not collect fee in excess of the fee decided under the provisions of this Act.

(6) The management of a private school shall not receive any donation or capitation fee under any name whatsoever, from any student, parent or guardian.

(7) The private school shall designate the bank account for depositing the fee and receipt of the fee so deposited shall be given to the student, parent or guardian in such manner as may be prescribed.

CHAPTER IV REGULATION OF RELATED ISSUES

Regulation of
related issues

6. The related issues shall be regulated in such manner as may be prescribed.

CHAPTER V DISTRICT COMMITTEE FOR REGULATING FEE AND RELATED ISSUES

Constitution of
District
Committee for
Regulating Fee
and Related
Issues

7. (1) There shall be a District Committee for Regulating Fee and Related issues consisting of the following members, namely.—

- | | | |
|-----|---|--------------------|
| (a) | District Collector | - Chairperson |
| (b) | District Treasury Officer | - Member |
| (c) | An officer not below the level of Assistant
Director nominated by District Collector | - Member |
| (d) | District Education Officer | - Member Secretary |

- (2) The quorum of the Committee shall be of three members.

Conduct of
proceeding

8. (1) The District Committee for Regulating Fee and Related Issues on receiving the proposal under sub-section (3) of Section 4 shall examine the documents and account presented before it by the management of the private school.

(2) The District Committee for Regulating Fee and Related Issues may appoint a Chartered Accountant to examine the records mentioned in sub-section (1) above and submit his report on such points as may be determined by the Committee.

(3) The District Committee for Regulating Fee and Related Issues may call for additional information from the management of private school that it considers necessary for taking a decision.

(4) The District Committee for Regulating Fee and Related Issues shall give reasonable opportunity of hearing to the management, students and the parents or guardians of the students admitted in the said school.

(5) The District Committee for Regulating Fee and Related Issues shall take a decision on the proposal received under sub-section (3) of Section 4, within 45 days of the receipt of the proposal:

Provided that time taken by the private school in furnishing additional information under sub-section (3) above shall not be included in calculating this period of 45 days.

(6) The District Committee for Regulating Fee and Related Issues shall forward the proposal received under sub-section (3) of Section 4 with comments to the State Committee for Regulating Fee and Related Issues, if the proposed increment of fee is more than 15 percent of preceding year, within seven days of the receipt of the proposal.

9. (1) The District Committee for Regulating Fee and Related Issues shall enquire into a complaint made by a parent or guardian of a student or a student, regarding violation of any provision of this Act and the rules made thereunder, committed by the management of the private school in which the student is studying.

Disposal of complaints regarding increment of fee and related issues.

(2) The District Committee for Regulating Fee and Related Issues may take suo motu cognizance of violation of any provision of this Act and the rules made thereunder and inquire into the same.

(3) The District Committee for Regulating Fee and Related Issues may authorize any officer not below the rank of Assistant Director to enter the premises of the private school against whom inquiry has been instituted under sub-section (1) and (2) above.

(4) The officer authorized under sub-section (3) above, shall search, inspect and seize documents, which appear necessary and relevant for the conduct of inquiry.

(5) The District Committee for Regulating Fee and Related Issues may discharge its functions in such manner as may be prescribed and shall for purpose of making any inquiry have the powers of a civil court under the Code of Civil Procedure, 1908 (No. 5 of 1908) while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any witness and examining him on oath;
- (b) requiring the disclosure and production of any document;
- (c) receiving evidence on affidavit; and
- (d) issue Commission for examination of witnesses.

(6) The Committee shall give opportunity of hearing to the management of the private school against whom inquiry has been instituted.

10. (1) If on completion of the inquiry regarding increment in fee under Section 9, the District Committee for Regulating Fee and Related Issues finds that fee in excess of that permitted under Section 5 has been collected, it shall direct the management of the said private school to refund the same to the students or their parent or guardians from whom it has been collected.

Order of refund and imposition of penalty.

(2) The District Committee for Regulating Fee and Related Issues shall in addition to the order of refund under sub-section (1) herein- above, impose a penalty upto rupees two lakhs on the management of the said private school where order of refund has been issued for the first time and penalty upto rupees four lakhs where order of refund is issued for second time and upto rupees six lakhs for subsequent orders of refund.

(3) If on completion of the inquiry regarding related issues under Section 9, the District Committee for Regulating Fee and Related Issues finds that the management has violated the provisions of this Act and the rules made thereunder, it shall direct the management of the private school to refund an amount as determined by it in the manner prescribed, to the students or their parents or guardians from whom it has been collected.

(4) The District Committee for Regulating Fee and Related Issues in addition to the order of refund under sub-section (3) above shall impose penalty as per provisions of sub-section (2) herein- above.

(5) The District Committee for Regulating Fee and Related Issues in addition to imposition of penalty mentioned in sub-section (2) and (4) above may also make recommendation to the competent authority to suspend or cancel the recognition of the said private school.

(6) If the management of the private school fails to refund the amount as ordered in sub-section (1) and (3) above or pay penalty imposed under sub-section (2) and (4) above, the District Committee for Regulating Fee and Related Issues shall proceed to recover the amount as an arrear of land revenue and the amount so recovered shall be paid to such persons mentioned in the order and the penalty deposited in such manner as may be prescribed.

CHAPTER VI

STATE COMMITTEE FOR REGULATING FEE AND RELATED ISSUES

Constitution of State Committee For Regulating Fee and Related Issues.

11. (1) There shall be a State Committee for Regulating Fee and Related Issues to decide on the proposals of increments of fee under clause (c) of sub-section (3) of section 5 and to hear the appeal against the orders of the District Committee for Regulating Fee and Related Issues.

(2) The State Committee for Regulating Fee and Related Issues shall consist of the following members, namely:-

- | | | |
|-----|--|--------------------|
| (a) | Commissioner of Public Instruction | - Chairperson |
| (b) | Additional Mission Director, State Education Center or an Officer nominated by Mission Director of the Center. | - Member |
| (c) | Joint Director (Finance), Public Instruction | - Member |
| (d) | Chief Engineer, State Education Centre, Bhopal | - Member |
| (e) | Director of Public Instruction | - Member-Secretary |

(3) The quorum of the State Committee for Regulating Fee and Related Issues shall be of three members.

(4) The provisions of sub-section (1) to (5) of sections 8 shall *mutatis mutandis* apply to the State Committee for Regulating Fee and Related Issues.

Provision of Appeal.

12. (1) The State Committee for Regulating Fee and Related Issues shall decide the appeal within such time and in such manner as may be prescribed.

(2) The State Committee for Regulating Fee and Related Issues may reduce or increase the penalty imposed by the District Committee for Regulating Fee and Related Issues.

CHAPTER VII

REGULATION OF ACCOUNTS AND MAINTENANCE OF RECORDS

Regulation of accounts and maintenance of records.

13. The management of private schools shall maintain the accounts and records in such form and manner as may be prescribed.

CHAPTER VIII

MISCELLANEOUS

Power to make rules.

14. (1) The State Government may, subject to previous publication, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) Every rule made under this section shall be laid before the State Legislative Assembly.

15. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

16. No suit, prosecution or other legal proceeding shall lie against the Chairperson or member of the District or the State Committee for Regulating Fee and Related Issues, for any order made by it or in respect of anything done in good faith or intended to be done under this Act and the rules made thereunder.

Protection of action taken in good faith.

17. (1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, as occasion arises, by an order published in the official Gazette do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid as soon as may be after it is made before the State Legislative Assembly.

18. (1) Notwithstanding any provision of this Act, the State Government may, by notification published in the official Gazette, impose a restriction on the management of the private school to keep the fee for the academic year beginning in 2018, within 10 percent of fee charged in the preceding year.

Special provision for academic year beginning in 2018.

(2) The provisions of sections 9, 10, 11 and 12 shall *mutatis mutandis* apply to the violation of this section.

19. The Madhya Pradesh Ashaskiya School Viniyaman Adhiniyam, 1975 (No. 33 of 1975) is hereby repealed.

Repeal.

STATEMENT OF OBJECTS AND REASONS

It has been the policy of the State Government to impart adequate and qualitative education to all children. However, the State Government from time to time has received a number of complaints from the public and parents about the commercialization of education by private schools and collection of amount in different heads in the name of fee, and further more unexpected increase in fee every year resulting into unjustified financial burden on the part of the parents. In this context School Education Department had issued guidelines in year 2015 to regulate fee and other related issues in private schools in the State of Madhya Pradesh. But the expected results could not be achieved, hence the State Government has decided to enact an Act to regulate increment in the fee and related issues in the private schools.

2. Hon'ble High Court of Madhya Pradesh Bench Gwalior while disposing Writ Petition No. 2450/2012 Little Angels Shiksha Samiti versus State of Madhya Pradesh and other 12 petitions on 13th May, 2015 has directed the Government that it should consider the aspect of regulation of fee and the relevant issues. In Civil Appeal No. 4060/2009 Modern Dental College and Research Centre Gwalior versus State of Madhya Pradesh and others, Hon'ble Supreme Court on 2nd May, 2016 has observed that "the educational institutions have the right to acquire funds for better education system, but the increase in fee should not be for earning profit. Academic activities should be considered as the work of philanthropy."

3. In order to regulate increment in fee and other related issues of private schools in the State of Madhya Pradesh, the proposed Bill is being proposed.

4. Hence this Bill.

BHOPAL :
Dated, the 28th November 2017

KUNWAR VIJAY SHAH
Member-in-charge.